



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,720	09/15/2003	Robert T. Wickham	MS1-1552US	1329
22801 7590 02/04/2009 LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201			EXAMINER VO, TED T	
			ART UNIT 2191	PAPER NUMBER
			MAIL DATE 02/04/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/662,720	Applicant(s) WICKHAM ET AL.	
	Examiner TED T. VO	Art Unit 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 and 44-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 and 44-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/14/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the communication filed on 11/05/2008.

Claims 1-39, 44-54 are pending in the application.

Response to Amendment

2. This is in response to the argument remarks filed on 11/05/2008.

The argument remarks have been considered but persuasive. For addressing a common software update that is applied to the various levels of client computers in a network using scheduling, Applicants have produced so many claims. None of them has been pointed out with the patentable discussion. However, Applicants' argument remarks contentions appear being only the features that are done commonly or obviously in the art. Many limitation appears inherently admitting the use of prior art. For example, Claims 28, Independent claims 39, 54 recites XML document is consumed and deployed by Microsoft Systems Management Server. That indirectly admits such act is done by others of the prior art. Since Applicants are using the trademarks and trade names as limitation, Applicants are noted that that limitation renders those claims indefinite.

Applicants' remarks appear submitting that the Examiner' rejection is blanket. At first, Applicants have to discuss where is the patentability in the claims. It should direct to the claims recites. For example,

Claim 1 address assigning a level of service to each client computer and scheduling a performance of software update according to the level of service. The Examiner had addressed that fails to make the patentable subject matter. An example of IT Support Announcement has given in the prior office action such as an email to address a level of service and scheduling.

Claims 29-30 direct to another embodiment that displays configuring icon that allows the client recurring the software update reminders and the reminders includes a grace period so that allowing the user for use. Those fail to be patentable.

Claim 34 directs to another embodiment that monitors a failsafe timeout for each update. Those have been discussed in IBM.

Claim 39 directs to another embodiment for configuring the packages, but performance limits as being done by Microsoft SMS. It appeals that the claim is mere admission because it narrows down the performance to the Microsoft tool.

Claims 44-45 direct to another embodiment which is merely a process that seen done commonly by distribution network.

Claims 49-50 direct to another embodiment which is merely a deployment.

Since the claims have been seen as they are so common in the art, Applicants' argument for the office's explanation on the references is improper. It assume that Applicants' claims are pursuant to 35 USC 121, the claims are applied to a single invention in accordance to 35 USC 121. However, if Applicants contend that the claims are distinct, the restriction might require.

Because the claims are so common, anticipation of a prior requires the prior art either expressly or inherently discloses each limitation of a claim. Under the principles of inherency, if

the prior art necessarily functions in accordance with or includes, the claims limitation, it anticipates. *Perricone v. Medicis Pharmaceutical Corp.*, 432 F.3d 1368, 1375-76, 77 USPQ2d 1321, 1325-26 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565, 24 USPQ2d 1321, 1326 (Fed. Cir. 1992). Anticipation of a patent claim requires a finding that the claim at issue "reads on" a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed Cir. 1999).

Furthermore, it should be noted that the rejection of claims being anticipated by a prior art is proper if the prior art reference discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation. *Perricone v. Medicis Pharmaceutical Corp.*, 432 F.3d 1368, 1375-76, 77 USPQ2d 1321, 1325-26 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565, 24 USPQ2d 1321, 1326 (Fed. Cir. 1992). Anticipation of a patent claim requires a finding that the claim at issue "reads on" a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346, 51 USPQ2d 1943, 1945 (Fed Cir. 1999) ("In other words, *if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.*") (internal citations omitted). Therefore, the applied prior arts of record is proper in addressing the limitations that are merely included or preemption.

The claimed Applicants' argument remarks appear raising the same submissions that have been provided by the Examiner in the action mailed in 11/28/2007. For allowance, Examiner would request the claims should point out the patentable subject matters, rather than causing a complication.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20, 28, 39, and 54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20, 28, 39, and 54 recited "Microsoft" as limitation. If the trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of the 35 U.S.C. 112, second paragraph. See MPEP 2173.05(u)

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Art Unit: 2191

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 49-53 are rejected under 35 U.S.C. 102(a) as being anticipated by Pawlak,

“Software Update Service to Ease Patch Distribution”, April 22, 2002.

(<http://www.directionsonmicrosoft.com/sample/DOMIS/update/2002/05may/0502sustep.htm>).

As per claim 49: Pawlak further disclose, *A method implemented by a server*

computer for performing software updates, the method comprising:

using a previously updated client computer as a reference client computer to generate a

template of approved updates (See page: Software Update Service Flowchart , and see page: The SUS Web Interface);

deploying the template to a plurality of client computers (See page: Software Update Service Flowchart , and see page: The SUS Web Interface); *and*

initiating software updates to the plurality of client computers according to the template (See page: Software Update Service Flowchart: “Start”).

As per claim 50: Pawlak further disclose, *A processor-readable medium encoded with*

executable instructions that, when executed, direct a server computer to perform a method for updating client computer performing software updates, the method comprising:

using a previously updated clement computer as a reference client computer to generate a template of approved updates (See page: Software Update Service Flowchart , and see page: The SUS Web Interface);

deploying the template of approved updates to a plurality of client computers (See page: Software Update Service Flowchart, and refer to the internet webpage of SUS Web Interface);
and

initiating software updates to the plurality of client computers according to the template of approved updates (See page: Software Update Service Flowchart: “Start”).

As per claim 51: Pawlak further disclose, The processor-readable medium of claim 50, the method further comprising: incorporating the template of approved updates into an XML file (See sec. How SUS Works).

As per claim 52: Pawlak further disclose, The processor-readable medium of claim 50, the method further comprising: deploying the template of approved updates with instructions for configuring the template of approved updates for consumption and deployment by a Microsoft Systems Management Server (SMS) system (See page: Software Update Service Flowchart, and refer to the internet webpage of SUS Web Interface).

As per claim 53: Pawlak further disclose, The processor-readable medium of claim 50, the method further comprising: using the template to identify a subset of software update files from a plurality of software update files (See page: Software Update Service Flowchart, and refer to the internet webpage of SUS Web Interface).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-12, 17-33, 44-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pawlak, “Software Update Service to Ease Patch Distribution”, April 22, 2002.

As per claim 1: Pawlak discloses,

A processor-readable medium encoded with executable instructions that, when executed, direct a server computer to perform a method for updating client computer, the method comprising:

Assigning, by a server computer, (See sec. “How SUS Works: refer to “SUS Server”) a level of service to each client computer of a plurality of client computers the server computer is assigned to manage, the level of service for a particular client computer comprising parameters regulating the application of updates to the particular client computer (See A.5); scheduling, by the server computer, (See “Software Update Service Flowchart”, SUS server starts running scheduled synch.. in the Server-side) performance of one or more software updates to

the particular client computer (i.e. SUS AU client. Furthermore, see “Software Update Service Flowchart”, from the Server-Side, a new package for update to assigned to a client) ***according to the level of service assigned to the particular client computer; and***
initiating (in “Software Update Service Flowchart”, i.e. “START” begun from the Server-Side processes), ***by the server computer, execution of the software updates according to the scheduling*** (See A.1 and A.2-3).

Pawlak does not address each of the SUS AU clients is having ***a level of service***. It clearly suggests the sizes and scales of service organizations or applying different group policies (See sec. “Scaling SUS for Larger Organizations”). For the deficiency in mentioning service level in the reference, the difference is only in ingredients for receiving the software in the different period. It does not cause any different effect in the any particular client but updating. The update performance, even in one level or another level remains the same to the software update to SUS UA clients. It should be noted that in the MPEP, the integration or the separation of ingredients does not cause patentable difference.

Therefore, it would be obvious to an ordinary in the are at the time of filing to perform software update on the SUS AU with different types for business requirement, where the cause for doing the service on a level of service would not present patentable difference based on adding/integrating/separating ingredients.

As per claim 2: Pawlak discloses, ***The processor-readable medium of claim 1, wherein the method further comprises:***

*configuring on the particular client computer, by the server computer, a postponement icon that, when displayed by the particular client computer and selected by a user of the particular client computer, causes the execution of the software updates to be postponed for execution within a defined window of time (grace period) (See A.2-3, and further see a stage in the client-side process, when Admin sees status balloon has option to defer installation: interpretable to *postponed within a grace period*), wherein the grace period is followed by an enforcement period (i.e. scheduled, or see page 6, “Critical Update Notification service”) within which selection of the postponement icon is prohibited so that execution of the software updates may not be further postponed (See A.2-3, the update is available only up to 3/14/2002).*

Pawlak, does not mention “icon”, but icon is common in the art because software update/installation always includes icon such as “Next”, or “cancel” for causing installation execution. It is obvious to include because of common in the art.

As per claim 3: With the absence of mentioning *assigning the level of service comprises* but is obviousness, as being incorporated to the claims 1 and 2, Pawlak discloses, *The processor-readable medium of claim 2, wherein assigning the level of service to each client computer comprises: establishing the grace period and the enforcement period, wherein by shortening the grace period a higher level of service results due to more rapid application of the software updates* (See A.2-3).

As per claim 4: Pawlak discloses, *The processor-readable medium of claim 1, wherein the method further comprises: configuring on a desktop of the particular client computer, by the server computer, an execution icon that, when displayed by the particular client computer and*

selected by a user, causes the execution of the software updates to be initiated immediately
(See A.2-3).

Pawlak, does not mention “icon”, but icon is common in the art because software update/installation always includes icon such as “Next”, or “cancel” for causing installation execution. It is obvious to include because of common in the art.

As per claim 5: With the absence of mentioning *icon* but is obviousness, as being incorporated to the claim 4, Pawlak discloses claim 5. See A.2-3, left, check-boxes. And refer to the stage “Admin sees status balloon has option to defer installation”.

As per claim 6: With the absence of mentioning *icon* but is obviousness, as being incorporated to the claims 4-5, Pawlak discloses claim 6. See A.2-3, and refer to the stage “Admin sees status balloon has option to defer installation”.

As per claim 7: With the absence of mentioning icon but is obviousness, as being incorporated to the claims 4-5, Pawlak discloses claim 7. See A.1.

As per claim 8: Pawlak discloses claim 8 by suggesting the **Software Update Service Flowchart**, a requirement for reboot, and address the limitation on SUS (See sec. Other SUS Limitations) or show a message “Installation requires a reboot”, in the page, **The SUS Web Interface**.

Pawlak does not address *deploying recurring reminders*; but it is obvious to the ordinary in the art to include *deploying recurring reminders*, similarly to the message “Installation requires a reboot” appearing in the page. It is only for reminding to ensure a completion where reboot is a requirement for allowing update software being integrated in a computer system.

Art Unit: 2191

As per claim 9: Pawlak discloses claim 9. See **Software Update Service Flowchart**, and refer to “Admin sees status balloon has option to defer installation” and stages after it.

As per claim 10: Pawlak discloses claim 10. See Software Update Service Flowchart.

Pawlak does not address *until after conclusion*, but it is obvious to include because this is human factor where a client under SUS and has his mind to conclusion within the period the Admin sees the status balloon.

As per claim 11: Pawlak discloses claim 11. See Software Update Service Flowchart.

As per claim 12: With the absence of mentioning *assigning the level of service* but is obviousness, as being incorporated to the claims 4-5, Pawlak discloses, *The processor-readable medium of claim 11, wherein assigning the level of service comprises configuring a duration of the change time-window, wherein a longer duration implies a higher level of service and a shorter duration implies a lower level of service*, inherently in mentioning Automatic Update Client”, and shown in A.1, and A.2-3.

It is obvious to include in this assigning with the configuration for conforming to such level of service.

As per claim 17: Incorporated with the rationale addressed in Claims 1, 11, Pawlak further discloses claim 17 (See page 3, within “Automatic Update Client”, See A.1, and A.2-3).

As per claim 18: Incorporated with the rationale addressed in Claim 1, Pawlak further discloses claim 18 (Refer to “software package”, “patch” that the SUS deploys to each Scenario in the reference)

As per claim 19: Incorporated with the rationale addressed in Claims 1, 18, Pawlak further discloses claim 19 (See Firewall used in the reference).

As per claim 20: Incorporated with the rationale addressed in Claims 1, 18, Pawlak further discloses 20 (See SUS/SMS used in the reference).

As per claim 21: Incorporated with the rationale addressed in Claims 1, 18, with the absence of mentioning *assigning the level of service* but is obviousness, Pawlak further discloses claim 21 (See Scenarios illustrated in the reference).

As per claim 22: Incorporated with the rationale addressed in Claims 1, 18, regarding, *The processor-readable medium of claim 18 further comprising, partitioning the package of software updates to separate trusted updates from un-trusted updates*

For the deficiency in mentioning *separate trusted updates from un-trusted updates* in the reference, the difference is only separation of ingredients for receiving the software. It does not cause any different effect in the any particular client but updating. The update performance, even in one level or another level remains the same to the software update to SUS UA clients. It should be noted that in the MPEP, the integration or the separation of ingredients does not cause patentable difference.

Therefore, it would be obvious to an ordinary in the art at the time of filing to perform separation of software on the SUS AU with different types clients for business requirement, where the cause for doing the service on dividing would not present patentable difference based on adding/integrating/separating ingredients.

Art Unit: 2191

As per claim 23: Incorporated with the rationale addressed in Claims 1, 18, 22, Pawlak further discloses, *The processor-readable medium of claim 22 further comprising, merging, by the server computer, one or more un-trusted software updates with the trusted software updates based on performance of the one or more un-trusted updates in a test environment* (Refer to Patch distribution, and see Scenarios illustrated in the reference).

As per claim 24: Incorporated with the rationale addressed in Claims 1, 18, and 22, regarding the limitation of claim 24: XML is common and in public uses. Pawlak shows it.

As per claim 25: Incorporated with the rationale addressed in Claim 1, with the absence of mentioning *assigning the level of service* but is obviousness, Pawlak further discloses claim 25 (See A.1. A-2-3).

As per claim 26: Incorporated with the rationale addressed in Claims 1, 25, Pawlak further discloses claim 26 (Note: The claim is only for conforming to the file format of HTML/ XML; Pawlak shows XML document).

As per claim 27: Incorporated with the rationale addressed in Claims 1, 25-26, Pawlak further discloses claim 27 (See A.1).

As per claim 28: Incorporated with the rationale addressed in Claims 1, 25-27, Pawlak further discloses, *The processor-readable medium of claim 27, wherein the XML document is consumed and deployed by Microsoft Systems Management Server (SMS)* (See A.1).

As per claim 29: See rationale addressed in the claim 1.

As per claim 30: See rationale addressed in the claims 1-2.

Art Unit: 2191

As per claim 31: Incorporated with the rationale addressed in Claim 30, Pawlak further discloses claim 31. See A.1.

As per claim 32: Incorporated with the rationale addressed in Claim 30, Pawlak further discloses claim 32. See A.1.

As per claim 33: Incorporated with the rationale addressed in Claim 30, Pawlak further discloses claim 33. See A.1, A2-3.

As per claim 44: Pawlak discloses claim 44. See section The Need for Automated Patch Distribution, and A1-3, A5-6, and refer to the rationale addressed in the claim 1.

Pawlak does not address each of the SUS AU clients is *divide trusted updates from un-trusted updates*. It clearly suggests the type of service organizations or applying different group policies (See sec. "Scaling SUS for Larger Organizations"). For the deficiency in mentioning *divide trusted updates from un-trusted updates* in the reference, the difference is only separation of ingredients for receiving the software. It does not cause any different effect in the any particular client but updating. The update performance, even in one level or another level remains the same to the software update to SUS UA clients. It should be noted that in the MPEP, the integration or the separation of ingredients does not cause patentable difference.

Therefore, it would be obvious to an ordinary in the are at the time of filing to perform software update on the SUS AU with different types clients for business requirement, where the cause for doing the service on dividing would not present patentable difference based on adding/integrating/separating ingredients.

Art Unit: 2191

As per claim 45: See rationale addressed in Claim 44.

As per claim 46: Pawlak further disclose claim 46. Refer patching distribution.

As per claim 47: Pawlak further disclose claim 47. See related rationale addressed in claim 24.

As per claim 48: Pawlak further disclose claim 48 (Refer to patch distribution with package, and see the page Software Update Service Flowchart).

9. Claims 13-16, 34-39, 54 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Pawlak, "Software Update Service to Ease Patch Distribution", April 22, 2002, in view of IBM, "RS/6000 ATM Cookbook", Redbook.ibm.com, 2000.

As per claim 13: Regarding limitation of claim 13, Pawlak discloses update scheduling, but does not address "*failsafe timeout period*"

However, "failsafe timeout period" is very common in installation/updating for terminating a process in which the timing exceeds predetermined maximum if the process requires time limit.

The IBM reference defines failsafe timeout period as a maximum time in second that allows a client to recover from network outage.

Therefore, it would be obvious to an ordinary of the art at the time of the application filing to include the "failsafe timeout period" in the update for stopping wasting unnecessary time when it knows that the update could take timing that less than a predetermined maximum.

This type of act is done common in installing/updating. For example, IBM has shown a grace period that has been set in an installation of ATM software (See IBM, p. 32, and p. 151).

As per claims 14-16:

Regarding limitation in Claim 14,

Pawlak discloses update scheduling, but does not address “*failsafe timeout period*”;

Regarding limitation in Claim 15,

Pawlak discloses identify update, but does not address “*failsafe timeout period*”;

Regarding limitation in Claim 16,

Pawlak discloses suspending (See page Software Update Service Flowchart: Admin see...has option to defer installation), but does not address “*failsafe timeout period*”

However, “failsafe timeout period” is very common in installation/updating for terminating a process in which the timing exceeds predetermined maximum if the process requires time limit.

The IBM reference defines failsafe timeout period as a maximum time in second that allows a client to recover from network outage.

Therefore, it would be obvious to an ordinary of the art at the time of the application filing to include the “failsafe timeout period” in the update for stopping wasting unnecessary time when it knows that the update could take timing that less than a predetermined maximum. This type of act is done common in installing/updating. For example, IBM has shown a grace period that has been set in an installation of ATM software (See IBM, p. 32, and p. 151).

As per claim 34: Pawlak discloses

*A method executed by a server computer for performing software updates on a plurality of client computers associated with the server computer (See SUS Architectural Scenarios), the method comprising: associating individual ones of the plurality of client computers into groups (See sec. Scaling SUS for Larger Organizations, see page Software Update Service Flowchart); establishing a change time-window for each of the groups (Refer to Client-side processes); and
initiating, by the server computer, software updates to each client computer of a particular group, wherein the initiating is performed within the change time-window established for the particular group (Refer to Client-side processes); monitoring, by the server computer, a failsafe timeout for each update on each client computer of the particular group.*

Pawlak's update does not address monitoring by the server computer a failsafe timeout

The IBM reference defines failsafe timeout period as a maximum time in second that allows a client to recover from network outage.

Therefore, it would be obvious to an ordinary of the art at the time of the application filing to include the "failsafe timeout period" in the update for stopping wasting unnecessary time when it knows that the update could take timing that less than a predetermined maximum. This type of act is done common in installing/updating. For example, IBM has shown a grace period that has been set in an installation of ATM software (See IBM, p. 32, and p. 151).

As per claim 35: See rationale addressed in Claim 34.

Art Unit: 2191

As per claim 36: Pawlak discloses claim 36 (See the Software Update Service Flowchart);

but does not disclose *and setting the failsafe timeout* recited in the manner of the claim. See this feature in IBM (see definition of failsafe, in IBM).

As per claim 37: Pawlak discloses claim 37. See page Software Update Service Flowchart:

Admin see...has option to defer installation, but does not address “*failsafe timeout period*”

IBM discloses *if the failsafe timeout*. See definition of failsafe, in IBM.

As per claim 38: Pawlak further discloses claim 38. See the mentioning the option to defer installation.

As per claim 39: Pawlak further discloses claim 39 (See the page Software Update Service Flowchart, in the Server-Side Processes, and sec. How SUS Works).

As per claim 54: Regarding limitations: *A processor-readable medium comprising processor-executable instructions that, when executed by a processor, instruct the processor to perform a method for performing software updates, the method comprising:*
receiving a plurality of software updates from a trusted website;

grouping a subset of the plurality of software updates into a package;

configuring the package for consumption by a Microsoft Systems Management Server (SMS) system;

partitioning the package to divide trusted ones of the software updates from un-trusted ones of the software updates;

utilizing SMS the package to a plurality of client-computers;

associating the plurality of client-computers into groups;

Art Unit: 2191

establishing a change time-window for each of the groups;

expressing to each particular one of the plurality of client-computers, which software updates in the package are suitable and trusted for consumption by the particular client-computer;

installing updates on each of the plurality of clients within the change time-window established for the group the client is a member of;

installing the un-trusted software updates only on client-computers configured to install un-trusted software updates;

setting a failsafe timeout for each installation on each client computer with reference to an anticipated duration of installation of each software update on each client computer;

monitoring the failsafe timeout for each software update on each particular client computer;

determining if the failsafe timeout for each software update on a particular client computer is greater than time remaining within the change time-window for update installation on the particular client computer, and if so, suspending installation of the software update on the particular client computer.

With regard to the recitation above, see the rationale and the obviousness as addressed in the rejection of claims 1-12, 18-28, and addressed further in Claim 34 above.

With regard to the limitation *failsafe timeout*, see addressing obviousness in combination in Claim 34 above.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV
January 28, 2009

/Ted T. Vo/
Primary Examiner, Art Unit 2191